

CHAPTER 33

EXCAVATIONS

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11-33-101 Purpose.

It is the purpose and object of this Ordinance to establish reasonable and uniform limitations, safeguards and controls on excavation within the incorporated areas of Farmington City, and to insure that excavation operations shall be rehabilitated to a condition of practical usefulness and reasonable physical attractiveness. These provisions are deemed necessary in the public interest to effect practices which will provide protection of the tax base (provide for the economic use of the vital materials necessary for our economy and give due consideration to the present and future use of land) in the interest of promoting the public health, safety and general welfare.

11-33-102 Zoning Administrator to Enforce.

The Zoning Administrator appointed by Farmington City Council is hereby designated and authorized as the officer charged with the enforcement of this Ordinance. He may delegate this authority in specific instances at his discretion to any authorized employee in his department.

11-33-103 Power and Duties of Zoning Administrator.

It shall be the duty of the Zoning Administrator to inspect or cause to be inspected at regular intervals, as often as necessary, all excavations. Where it is determined by the Zoning Administrator that excavation is proceeding not in compliance with the provisions of this Ordinance, he shall enforce the provisions of this Ordinance, and in performance of this duty may enter actions in the courts, where necessary, and his failure to do so shall not legalize any violations of such provisions.

11-33-104 Permit Required.

No excavation, as defined in this Ordinance, shall be commenced or proceeded with except after the issuance of a written permit for the same by the Zoning Administrator. No permit shall be issued unless it bears thereon the approval of the Zoning Administrator.

11-33-105 Penalties.

Any person violating any provision of this Ordinance shall be deemed guilty of a misdemeanor and punished by imprisonment in the County jail for a period not exceeding six (6) months or by a fine in any sum less than two hundred ninety-nine dollars (\$299), or both, provided that a corporation violating a provision or provisions of this Ordinance shall be punished by a fine not exceeding one thousand dollars (\$1,000). Each day the violation is permitted to exist shall constitute a separate offense.

11-33-106 Definition of Excavation.

For the purpose of this Ordinance, excavation shall mean the removal of clay, soil, granite, flagstone, slate, shale, limestone, sandstone, sand and gravel and minerals from the earth by excavating, stripping, leveling or any other process, together with all other types of mining operations where material is removed from the earth. The provisions of this Ordinance shall not apply to the removal of sod or topsoil, providing the operation be not closer than ten feet to any property line or to a depth in excess of eighteen (18) inches or so to adversely affect the drainage of the area; and to provide further, this Ordinance shall not apply to ditching and land leveling for agricultural purposes.

11-33-107 General and Yard Requirements.

(1) No accessory access road, parking area, or office building shall be permitted closer than two hundred (200) feet on any occupied residential building or within fifty (50) feet of a public highway right-of-way. No part of any excavating operation, or crushing, screening, washing, mixing or other type of processing operation shall be permitted closer than fifty (50) feet to a public highway right-of-way or one thousand (1,000) feet to any occupied residential or commercial building. The Farmington City Council may reduce this requirement to not less than five hundred (500) feet provided each party having interest in any occupied residential or commercial building so affected shall sign a waiver in favor of the applicant as being unopposed to the location of such use.

(2) Relating to existing operations, the Farmington City Council, consistent with the intent of these regulations, and where the character of terrain, of ownership of land, or surrounding development, or where other special conditions would justify such modifications, may permit a reduction in the required yard as stipulated above so as not to impose unreasonable requirements, however, in no case shall the required distance for any excavation or accessory structure be less than fifty (50) feet from a residential occupancy.

11-33-108 Operational Requirements.

All excavation operations conducted or carried on are subject to the following limitations, restrictions and controls:

(1) Dust, Noise, Vibration, Smoke, Light, and Odor - All equipment and machinery used on the site of an excavation operation shall be constructed, maintained and operated in such a manner as to reduce dust, smoke, noise, vibration, welding lights and odor to a minimum as determined by the Zoning Administrator. Access and haulage roads on the site shall be maintained in a dust free condition by surfacing or other treatment.

(2) Fencing and Barriers - Fencing or other suitable barriers shall be created and maintained on the excavation site or on portions of the site where such fencing is practicable and necessary because of dangerous conditions created by the excavation.

(3) Related Manufacturing Operations - The manufacturing or the production of ready-mixed concrete, the production of asphalt mixes and any similar production or manufacturing processes which might be related to the excavation operation shall be permitted except as otherwise provided in this Ordinance.

(4) Washing - The washing of sand and gravel shall be done so as to prevent the discharge of waste water directly into adjacent natural water courses or on to any public or private roads or any private property without the consent of the owner.

(5) Hours of Operations - Operations shall not begin before 6:00 a.m. and shall not continue after 6:00 p.m. and no operation shall take place on Sunday or legal holidays. During periods of unusual emergency, time and hours of operation may be altered by the Zoning Administrator.

(6) Excavation and Backfilling:

- (a) Where backfilling is required, the excavation shall be graded or backfilled with non-noxious, non-flammable, non-combustible solids. The materials used or the method of fill shall not be such as to create a health hazard nor which would be objectional because of odor or unsightliness.
- (b) The graded or backfilled area shall not collect and permit stagnant water to remain thereon.
- (c) The peaks and depressions of the excavation area shall be reduced to a surface which will result in level or gently sloping topography in substantial conformity to the land area immediately surrounding and which will minimize erosion due to rainfall.
- (d) In any rehabilitation procedure which takes place in sand and gravel pits or on other sites where the materials are loose or of friable nature, no slope shall be left which is steeper than a ratio of two (2) horizontal to one (1) vertical. In no case shall any slope exceed the normal angle of repose of the material involved.

(7) Time Limitation - Within one (1) year after the cessation of the operation, all temporary structures (except fences) equipment, rock piles, rubble heaps and other debris shall be removed or backfilled into the excavation so as to leave the premises in a neat and orderly condition.

(8) Drainage - The finished slopes shall be graded to direct the drainage water to acceptable drainage channels, or into drainage system to be provided by the contractor and approved by the City Engineer.

(9) Road Restoration - All haulage roads used to move material to and from the excavation site through Farmington City shall be restored to an equal or better condition as soon as possible after completion of the haulage contract, however, all road restoration work must be completed within ninety (90) days.

11-33-109 Rehabilitation Requirements.

In order to insure that the area of excavation operation and the haulage roads shall be rehabilitated, the owner or operator shall, prior to the commencement of excavation, submit to the City Planner a plan of such rehabilitation in the form of the following:

(1) A description of all phases of the contemplated operation and the specific mention of type of machinery and equipment which will be or might be necessary to carry on the operation. Where the operation is to include the washing of sand and gravel, the estimated daily quantity of water required, its source and disposition shall be made a part of this description.

(2) A legal description of the proposed site with map showing its location with indications of private access roads, existing or proposed, and of public highways adjacent to the site which will be affected by the operation.

(3) A topographic map of the area at a minimum contour interval of five (5) feet extending beyond a site to the nearest public street or highway or to a minimum distance of three hundred (300) feet on all sides.

(4) A physical rehabilitation plan showing the proposed contours after rehabilitation and other special features of rehabilitation and the method by which such rehabilitation is to be accomplished. The rehabilitation plan will include, but not be limited to:

- (a) A drainage plan showing main drainage channels and flow pattern to handle the maximum rainfall of the previous ten (10) years;
- (b) A definition of roads to be used for haulage and a description of the condition to which those roads will be restored after completion of the haulage contract;
- (c) The type of cover to be planted as part of the restoration project;
- (d) The method of stabilizing soft slopes to prevent erosion until the covering plants are established;
- (e) The plan for supplying water to the covering plants to insure germination and early growth.

(5) A bond shall be provided equal to the estimated cost of rehabilitation as defined in Section 11-33-109. This estimate will be made by the City Engineer. This bond shall be written by a licensed surety company in the State of Utah, or a bank cashier's check will be made payable to Farmington City Corporation. In the event of applicant failure to fulfill the agreement such bond or bonds, check or checks, shall be subject to forfeiture as follows:

- (a) In the event of failure, applicant shall be given ten (10) days' notice of forfeiture hearing.
- (b) In the event applicant at such hearing is not able to show cause why the forfeiture should not occur, the bonding company or principal shall pay Farmington City Corporation the amount of the bond, or the check shall be forfeited or in either event such lesser amount as necessary to complete said rehabilitation.

(6) Rehabilitation shall proceed as soon as practicable after termination of the excavation operation. In all cases, rehabilitation must start within six (6) months and be

completed within two (2) years after cessation of operations. However, the owner or operator may, at his option, submit a plan for progressive rehabilitation as the excavation operation is carried on. The required bond in such case may cover progressive states of the rehabilitation for periods of not less than two (2) years.

(7) At any stage during the rehabilitation, the plan may be modified by submission and approval of any amended rehabilitation plan as required in the original application.

(8) The rehabilitation plan and all data and information pertaining thereto shall be referred to the Planning Commission by the City Planner within fifteen (15) days after receipt thereof for report and recommendation. The Planning Commission will have thirty (30) days in which to respond. If approved, the Planning Commission shall express its written approval with whatever conditions are attached, by returning one (1) copy of the rehabilitation plan signed by the Planning Commission Chairman to be delivered to the owner or operator. If the plan is disapproved, the Planning Commission shall indicate its disapproval in writing and reasons therefore by a similarly signed copy.

11-33-110 Exceptions.

In cases where unusual topographical or other exceptional conditions exist, variations and exceptions from this Ordinance may be made by the Farmington City Council. Prior to final decision on any variation or exception, the question shall first be referred to the Planning Commission for its recommendations or suggestions. But the final decision will be made by the Farmington City Council.

11-33-111 Application to Existing Operations.

Within ninety (90) days after adoption of this Ordinance, existing operations shall comply with the provisions set forth in Sections 11-33-107 and 11-33-108 of this Chapter, and within one (1) year after adoption of this Ordinance existing operations shall comply with the provisions set forth in Section 11-33-109. However, in no case shall requirements be imposed which are economically or engineeringly unreasonable in respect to conditions resulting from operations prior to enactment of this Ordinance.